

Applic. Number 10/694,492  
In re Application of Rinks et al.  
Technology Center 2128  
Amendment filed September 10, 2007  
Reply to Office Action mailed March 8, 2007

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### **REMARKS**

In the Office Action mailed on March 8, 2007, the Examiner reviewed claims 1, 8, 9 and 13 – 68 of the Application, with the result that claims 1, 13, 18 – 21, 32, 47, 49, 67 and 68 were rejected under 35 USC § 102 as being anticipated by the Building Materials Estimating Software ("BMES") of October, 2000, by Rinks Construction, Inc. Furthermore, claims 8, 9, 14 – 17, 22 – 31, 33 – 46, 48 and 51 – 66 were objected to as being dependent upon a rejected base claim. Claim 50 was allowed. In response, the Applicants have amended the specification and claims as set forth above.

Claims 1 and 49 are currently amended. New claims 69 and 70 are added.

During a telephone interview with the Examiner on March 29, 2007, claims 1, 18 – 20, 37 and 69 were discussed. During a follow-up telephone interview with the Examiner on March 29, 2007, claims 67 and 68 were discussed. From the documents of record, FIGS. 45, 69, 71, 77 and 78 of the BMES were considered with respect to claim 1. The principal proposed amendments that were discussed are described below. The Examiner's arguments in the telephone interviews were consistent with those stated in his

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Office Action mailed on March 8, 2007. The Examiner's claim rejections under 35 USC § 102 were discussed with regard to claim 1. Also, the Applicants stated an intent to submit a new claim, presented herein as claim 69. Claim 70, which is consistent with claim 69, is also presented herein.

The Applicants proposed to amend claim 1 by adding a step after "displaying the set of materials," as follows: "generating a visual model of at least one aspect of the wood frame building using the plurality of parameters for the wood frame building which have been selected." Applicants' proposed step conveys that a number of visual models for the invention are generated on a pseudo real-time basis, i.e. within the timeframe of concluding a particular estimate, based on parameter selections made by the computer program user. With the invention, for example, a wood frame building having a "Building Height" of 10 feet (see Applicant's pole barn estimate, FIGS. 6 and 59) has a greater height in a computer screen display, or printed on paper, than a wood frame building having a "Building Height" of 8 feet (see Applicant's garage estimate, FIGS. 159 and 163). By contrast, and referring to Applicants' "INFORMATION DISCLOSURE STATEMENT UNDER 37 CFR § 1.97(c)" ("IDS") mailed on December 13, 2006, the BMES always generates the visual model of IDS FIG. 71 for a pole barn, no matter what height the user specifies.

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The Examiner proposed, and Applicants accepted, that the added step for currently amended claim 1 be recited as "dynamically generating a visual model . . ." etc. This is consistent with the operation of the invention as compared to the BMES. The BMES is not as flexible and capable in use as the invention, because all of the visual models of the BMES are "static" in nature: they provide exemplary views that are not indicative of the actual parameters of the user's current estimate, but rather of a generic estimate. However, the visual models of the invention show the user what the end product will look like. An estimate using the invention, and therefore its visual models, can be updated as the estimate is being developed.

Dynamically generating a visual model for the invention is supported in the Specification at, for example, page 31, line 7 to page 32, line 11, referring to FIGS. 55 – 59 for moving openings such as doors and windows, etc., using either the horizontal scroll bar or the "Move Opening" dialog box. FIGS. 55 – 59 demonstrate that the user can change a specific parameter in a pending or existing estimate (here, a door's location), so that the screen display is updated accordingly in pseudo real-time, as well as any associated prints, material lists, etc., produced by the invention. For the BMES, the location of entry and sliding doors for a pole barn is always as shown in IDS FIG. 72 because its display is static and does not update based on input from the user.

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Similarly the locations of entry and overhead doors for a garage are always as shown in FIG. 45 of the IDS. Other support in the Specification for dynamically generating a visual model, etc. includes page 6, lines 22 – 23 (for the invention, generally); inserting overhead doors into the display and moving them (page 33, lines 15 – 19; compare FIG. 54 to FIGS. 72 – 73 for the South Side – Eave Side 1); and inserting a window into the display (page 35, lines 3 – 4; compare FIG. 55 to FIG. 86 for the East Side – Gable Side 1). In each case, user-implemented changes are carried out in pseudo real-time when a user makes modifications to an estimate or begins a different estimate.

Regarding claims 67 – 68, Applicants stated that several companies provide products for designing buildings which are capable of displaying a visual model having a selected exposed wall material layer and/or roofing material layer in a final elevation view. However, Applicants respectfully state that these products do not appear to specifically address certain key requirements for designing a wood frame building, such as selecting a plurality of parameters for poles. (See FIGS. 9 – 13, 165 – 173; also the Specification at page 11, line 1 – page 15, line 16.) Among the important advantages of the invention over these products is the ease and guidance (ex. FIG. 14) provided to the user in specifying the numerous characteristics of poles for an estimate. The wood species, pole size and spacing are readily selected by the program

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user. Four specific "types" of pole spacing are available for different building situations and codes, including incorporating the "opening poles" for door openings into the pole layout to obtain optimal pole usage. Furthermore, the "type" of pole spacing may be set independently for the gable and eave sides. Pole orientation (for nonsquare poles) with respect to a wall, and the use of overhead plug poles above door openings, can be chosen. Finally, the user may select parameters for all corner poles such as their size independently from the rest of the poles in order to meet certain design requirements. These features distinguish the invention from generic building software programs such as: "AUTOCAD," commercially available from Autodesk, Inc., San Rafael, California; "TURBOCAD," commercially available from IMSI, Inc., Novato, California; "CHIEF ARCHITECT," commercially available from Chief Architect, Coeur d'Alene, Idaho; "SOFTPLAN," commercially available from SoftPlan Systems, Inc., Brentwood, Tennessee; and SolidBuilder, commercially available from Digital Canal Corporation, Dubuque, Iowa.

This concludes the subject matter discussed during the telephone interviews on March 29, 2007.

Applicants state that the allowable claims may be allowable for reasons in addition to, or in lieu of, those identified by the Examiner.

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Applicants regard the Building Materials Estimating Software ("BMES") of October, 2000, by Rinks Construction, Inc., cited in the Office Action mailed on March 8, 2007, as a document of record only, and not as prior art. Applicants respectfully maintain that statements which have been made during the course of prosecution to distinguish the claimed subject matter over the cited documents are not to be interpreted as admissions that the cited documents are prior art.

#### **Rejections Under 35 USC § 102**

Regarding currently amended claims 1 and 49, Applicants have amended the claims in accordance with the Examiner's proposal. Therefore Applicants respectfully request allowance of currently amended claims 1 and 49.

Regarding claims 13, 18 – 21, 32, 47, 67 and 68, Applicants request that these claims be allowed since they depend from currently amended claim 1 (or other claims which trace back to claim 1).

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### **Claim Objections**

Applicants respectfully request allowance of claims 8, 9, 14 – 17, 22 – 31, 33 – 46, 48 and 51 – 66, as now depending from allowable base claims.

### **New Claims**

Applicants respectfully request allowance of new claim 69 since it depends from allowable, currently amended claim 1, and furthermore is supported by the Specification and figures. Applicants also respectfully request allowance of new claim 70 since it depends from allowable claim 18 (which depends from allowable claim 1), and is supported by the Specification and figures. The new claims supported by the figures are respectfully submitted for entrance into the Application under MPEP 2163 II. A. 3(a). New claims 69 and 70 are supported by FIG. 123 (refer to the column entitled "Height"). They are also supported in the Specification at page 23, lines 4 – 6, which imply that the final dimensions for all metal panels, as well as those for "the individual metal panel," can be obtained from the steel panel layout of FIGS. 123 – 124.

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Furthermore, the new claims are supported in the Specification at page 19, line 23 to page 20, line 5.

Applicants state that no new matter is introduced into the Application by this "SECOND AMENDMENT UNDER 37 CFR § 1.111."



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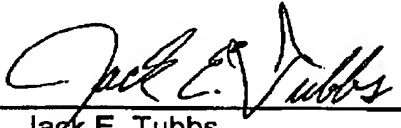
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**Closing**

In view of the above, Applicants believe that the rejections to their claims have been overcome, and that the claims are patentably distinct over all the references of record, whether alone or in combination. It is therefore respectfully requested that this patent application be given favorable reconsideration.

If the Examiner has any questions, Applicants' representative may be reached at (810) 687-8900. Thank you.

Respectfully submitted,

 10 Sept 2007  
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